

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: Kansas City District (CENWK)
FILE NUMBER: 200501360

PROJECT LOCATION INFORMATION: Section 34, T-05-S, R-05-W/Tributary to Buffalo Creek

State: Kansas
County: Cloud
Center coordinates of site (latitude/longitude): 39-34-02N 97-52-04W
Approximate size of area (parcel) reviewed, including uplands: 60 acres.
Name of nearest waterway: Buffalo Creek
Name of watershed: Lower Republican (10250017)

JURISDICTIONAL DETERMINATION

Completed: Desktop determination ☒ Date: April 21, 2005
Site visit(s) ☐ Date(s):

Jurisdictional Determination (JD):

- ☐ Preliminary JD - Based on available information, ☐ *there appear to be* (or) ☐ *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
- ☒ Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:
- ☐ *There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .
- ☒ *There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.127 acre.
- ☐ *There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.
☐ Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

- ☐ The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

- ☐ (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- ☐ (2) The presence of interstate waters including interstate wetlands¹.
- ☐ (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
- ☐ (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
- ☐ (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- ☐ (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- ☐ (4) Impoundments of waters otherwise defined as waters of the US.
- ☒ (5) The presence of a tributary to a water identified in (1) - (4) above.
- ☐ (6) The presence of territorial seas.
- ☐ (7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* This is a tributary to Buffalo Creek, a tributary to the Republican River, which is an interstate water of the U.S. and a tributary to larger rivers that eventually flow into the Gulf of Mexico.